

5.02 Type II (Quasi-Administrative) Decisions

5.02 General Requirements

- A. The purpose of this Section is to identify what types of actions are considered Type II decisions. Type II Decisions involve the exercise of limited interpretation or exercise of policy or legislative judgment in evaluating approval criteria. The Director evaluates the request and issues a decision giving approval, approving with conditions, or denying the application. The Director's decision is appealable to the City Council with notice to the Planning Commission, by any party with standing (i.e., applicant and any person who was mailed a notice of decision). The City Council then conducts a public hearing. The City Council's decision is the City's final decision and is appealable to LUBA (Land Use Board of Appeals) within 21 days after it becomes final.
- B. To initiate consideration of a Type II decision, a complete City application, accompanying information, and a filing fee must be submitted to the Director. The Director will evaluate the application as outlined in this Section.

- 5.02.01 Access Permit to a City Major or Minor Arterial Street
- 5.02.02 Architectural Standard Substitution
- 5.02.03 Design Review, Type II
- 5.02.04 Exception to Street Right of Way and Improvement Requirements
- 5.02.05 Partition, Preliminary Approval
- 5.02.06 Zoning Adjustment

5.02.01 Access Permit to a City Minor or Major Arterial Street

- A. Purpose: The purpose of a Type II Access Permit is to ensure conformance to City street access standards and this Ordinance (Section 3.04) in circumstances where the access to a Minor or Major Arterial Street is not subject to any other type of land use approval.
- B. Criteria: The application shall conform to the applicable standards and guidelines of this ordinance.

5.02.02 Architectural Standard Substitution

- A. Purpose: The purpose of a Type II Architectural Substitution Permit is to allow substitution to the architectural standards found in this Ordinance (Section 3.07). Substituted materials or design need to meet the overall intent of this ordinance by providing for quality construction, reflect custom design, and result in equal or greater design quality. A maximum of three substitutions may be considered for each building covered by an application for substitute standards.

Architectural standards set by statute (ORS 197.307 and 197.314) relating to roofs on manufactured dwellings are non-variable, and cannot be modified by a substitution.

- B. Criteria: The suitability of the substitute architectural standards shall be based on

consideration of how each substitute standard:

1. Incorporates design elements and materials that reflect a custom design;
2. Incorporates materials, that in substance and visual appeal, are of equal or greater quality;
3. For residential development:
 - a. Reflects the character of the existing housing within the subject subdivision and/or surrounding area within 250 feet of subject property;
 - b. Ensures that needed housing is not discouraged through unreasonable cost, pursuant to ORS 197.307.

5.02.03 Design Review, Type II

- A. Purpose: The purpose of Type II design review is to ensure that new buildings or additions to existing buildings comply with Land Use and Development Guidelines and Standards of this ordinance (Sections 2 and 3).
- B. Applicability: Type II Design Review is required for the following:
 1. Non-residential structures 1,000 square feet or less in the RS, R1S, RM, and P/SP zones.
 2. Structures 2,000 square feet or less than in the CO, CG, DDC, and NNC zones.
 3. Structures 3,000 square feet or less in the IP, IL, MUV and SWIR zones.
 4. For sites with existing buildings in the CO, CG, MUV, DDC, NNC, IP, IL, and SWIR zones; expansions or new buildings that increase lot coverage by more than 10% but less than 25%.
 5. Change of use that results in an increase in required parking of more than 10% but less than 25%.
 6. Single family and duplexes in the NCOD zone, but excluding structures subject to Type I review.

5.02.04 Exception to Street Right of Way and Improvement Requirements

- A. Purpose: The purpose of a Type II Street Exception is to allow deviation from the street standards required by this Ordinance (Section 3.01) for the functional classification of streets identified in the Woodburn Transportation System Plan. An exception for a development reviewed as a Type I or II application shall be considered as a Type II application, while development reviewed as a Type III application shall be considered a Type III application.
- B. Criteria:
 1. The estimated extent, on a quantitative basis, to which the rights-of-way and improvements will be used by persons served by the building or development, and whether the use is for safety or convenience;

2. The estimated level, on a quantitative basis, of rights-of-way and improvements needed to meet the estimated extent of use by persons served by the building or development;
 3. The estimated impact, on a quantitative basis, of the building or development on the public infrastructure system of which the rights-of-way and improvements will be a part;
 4. The estimated level, on a quantitative basis, of rights-of-way and improvements needed to mitigate the estimated impact on the public infrastructure system.
- C. Proportionate Reduction in Standards: An exception to reduce a street right-of-way or cross-section requirement below the functional classification standard may be approved when a lesser standard is justified, based on the nature and extent of the impacts of the proposed development. No exception may be granted from applicable construction specifications.
- D. Minimum Standards: To ensure a safe and functional street with capacity to meet current demands and to ensure safety for vehicles, bicyclists and pedestrians, as well as other forms of non-vehicular traffic, there are minimum standards for rights-of-way and improvements that must be provided to meet the standards of this Ordinance (Section 3.01).

5.02.05 Partition, Preliminary Approval

- A. Purpose: The purpose of this Type II review is to ensure that partitions - the dividing of a single lot into 3 or less lots within one calendar year - comply with this Ordinance, with the Land Use and Development Standards and Guidelines (Sections 2 and 3), and applicable Oregon State Statutes.
- B. Criteria: Preliminary approval of a partition requires compliance with the following:
1. The preliminary partition complies with all applicable provisions of this ordinance.
 2. Approval does not impede the future best use of the remainder of the property under the same ownership or adversely affect the safe and efficient development of any adjoining land.
 3. The proposed partition is served with City streets, water, sewer and storm drainage facilities with adequate capacity.
 4. That the partition takes into account topography, vegetation and other natural features of the site.
 5. That adequate measures have been planned to alleviate identified hazards and limitations to development:
 - a. For regulatory wetlands, these shall be the measures required by the Division of State Lands.
 - b. For unstable areas, demonstration that streets and building sites are on geologically stable soil considering the stress and loads to which the soil may be subjected.

5.02.06 Zoning Adjustment

- A. Purpose: The purpose of a Type II zoning adjustment is to allow minor variance to the development standards of this ordinance, where strict adherence to these standards is precluded by circumstances beyond the control of the applicant, and minor deviation from the standards will not unreasonably affect existing or potential uses on adjacent properties.
- B. Criteria: A zoning adjustment involves the balancing of competing and conflicting interests. The following criteria will be considered in evaluating zoning adjustments.
 - 1. The adjustment is necessary to prevent unnecessary hardship relating to the land or structure. Factors to consider in determining whether hardship exists, include:
 - a. Physical circumstances over which the applicant has no control, related to the piece of property involved, that distinguish it from other land in the same zone, including but not limited to lot size, shape, and topography.
 - b. Whether the property can be reasonably used similar to other properties in the same zone without the adjustment.
 - c. Whether the hardship was created by the applicant requesting the adjustment.
 - 2. The zoning adjustment will not be materially injurious to adjacent properties or to the use of the subject property. Factors to be considered in determining whether development is not materially injurious include, but are not limited to:
 - a. Physical impacts such development will have because of the adjustment, such as visual, noise, traffic and drainage, erosion and landslide hazards.
 - b. If the adjustment concerns joint-use parking, the hours of operation for vehicle parking shall not create a competing parking demand.
 - c. Minimal impacts occur as a result of the proposed adjustment.
 - 3. The adjustment is the minimum deviation from the standard necessary to make reasonable use of the property;
 - 4. The adjustment does not conflict with the Woodburn Comprehensive Plan.
- C. Maximum Adjustment permitted:
 - 1. Lot Area: Up to a five percent reduction in the minimum lot area.
 - 2. Lot Coverage: Up to an increase of five percent in lot coverage.
 - 3. Front Yard Setback or Setback Abutting a Street: Up to a 10 percent reduction of a setback.
 - 4. Side Yard Setback: Up to a 20 percent reduction in setback, but no less than a five foot setback in a RS or R1S zone or less than the requirements of the state building code, whichever is more restrictive.
 - 5. Rear Yard Setback: Up to a 20 percent reduction in setback, but no less than a five foot setback, except in those zones permitting zero setbacks the minimum setback shall be either 5 feet or zero.
 - 6. Lot Width: Up to a ten percent reduction.

7. Lot Depth: Up to a ten percent reduction.
8. Building/Fence Height: Up to a ten percent increase in height.
9. Parking Standards: Up to a five percent reduction in required parking spaces except no reduction in the number of handicapped vehicle parking spaces or in dimensional standards.
10. Joint-Use Vehicle Parking: Up to 20 percent of the required vehicle parking may be satisfied by joint use of the parking provided for another use.
11. Fences and Freestanding Walls: The location or height of a fence or free-standing wall, excluding the adjustment of any such facilities within a clear vision area.

D. Prohibited Adjustments:

1. Adjustments to the number of permitted dwellings and to the use of property shall be prohibited.
2. Standards established by Oregon Revised Statutes for manufactured dwellings and manufactured dwelling parks are non-variable.